

**Town of La Pointe Zoning  
Town Plan Commission Special Monthly Meeting Minutes  
October 6, 2010**

**Town Plan Commission (TPC) Members Present:** Ted Pallas, Chair, Charles Brummer, Vice-Chair, Larry Whalen, Suellen Soucek, Ron Madich, Greg Thury, Carey Baxter (7).

**Town Plan Commission Members Absent:** none.

**Public Present:** Bob Hartzell (1).

**Town Staff Members Present:** Jennifer Croonborg-Murphy, ZA, Margaretta Kusch, ZCA (2).

**I. Call to Order/Roll Call**

Chair Pallas called the meeting to order at 4:30 PM at the Town Hall. Roll call reflected members present or absent as recorded above.

**II. Public Comment**

**III. Approval of Previous Meeting Minutes**

**a. Town Plan Commission Regular Monthly Meeting, September 15, 2010**

- On page 1, item V.b, change “*meets and bounds*” to “*metes and bounds*.”
- On page 4, 12<sup>th</sup> bullet point, change “*principle*” to “*principal*.”

G. Thury moves to approve as amended the Town Plan Commission Regular Monthly Meeting minutes of September 15, 2010. S. Soucek seconds. All in favor, 7 aye. Motion Carries.

**b. Town Plan Commission Question & Answer Session, September 23, 2010**

- On page 1, item II, delete “*the*” after “*representing*.”

G. Thury moves to approve as amended the Town Plan Commission Question & Answer Session minutes of September 23, 2010. S. Soucek seconds. All in favor, 6 aye, 1 abstain (C. Baxter). Motion Carries.

**c. Town Plan Commission Special Meeting/Question & Answer Session, September 29, 2010**

- On page 1, item II, change “*The zoning vehicle in need of*” to “*The zoning vehicle is in need of*.”
- On page 1, item II, insert “*in a designated fund*” after the word “*aside*” in “*...so \$5,000 are proposed to be set aside this and next year...*”
- On page 4, change “*Chair Pallas: both he and Mr. Fauerbach agree that the situation is that a Town Board decision to the BOA, and that neither of them likes with this rule*” to “*Chair Pallas states both he and Mr. Fauerbach agree that the situation is that a Town Board decision cannot be appealed to the BOA, and that neither of them likes this rule because there’s no process for local appeal.*”

G. Thury moves approve as amended the Town Plan Commission Budget/Question and Answer Session minutes of September 29, 2010. S. Soucek seconds. All in favor, 6 aye, 1 abstain (C. Brummer). Motion Carries.

**VI. Zoning Administrator’s Report**

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## V. Consideration and/or Action of Permit Applications

G. Thury makes a motion to move agenda items V.b and V.c up to before item V.a. S. Soucek seconds. All in favor, 7 aye. Motion Carries.

### a. Huber, Paul/Dolores RE: Add/Alter @ 367 Minnewawa LP# 014-00265-0000

The property owners are applying to add dormers to their house. The structure overhang is 3 feet at the closest point to the rear property line, which adjoins the golf course. The property has five sides. In the past, Joe McCarthy and the ZaP had interpreted two of the property lines as rear, which would require a 20 ft. setback. Mr Huber has re-listed one of those lines as a side on this application, which would only require a 6 ft. setback.

The house is not a legal nonconformance, but apparently a variance may have been granted in 1981 (Mr. Huber attached a photocopy of a Public Hearing agenda concerning the variance). The Zoning Administrator reports that there's no record of a variance for this property in the Town records, which means that it's impossible to know what specific requirements that variance had (e.g., where building would be allowed).

The Zoning Administrator therefore asks the Town Plan Commission if it can be expanded without another variance (assuming a variance was previously granted).

Chair Pallas and C. Brummer both state that a variance cannot be expanded with a land use permit, and that adding dormers is definitely a structural alteration. J. Croonborg-Murphy asks if dormers could be built on the side of the house not facing the golf course, where it appears the addition would meet setbacks. Chair Pallas answers that a boundary survey could be done to find out.

G. Thury moves to deny the Huber, Paul & Dolores permit application for 367 Minnewawa due to being not in the rear-yard setbacks and direct the Zoning Administrator to write a letter to the property owners informing them of the decision and advising them to get a boundary survey before any re-submittal of applications. S. Soucek seconds. All in favor, 7 aye. Motion Carries.

### b. Hartzell, Robert RE: After the fact Certified Survey Map for the division of parcel #014-00206-0200 at easterly corner of Penny Lane & Mondamin Trail.

The County Surveyor's Office hasn't yet given its comments on this CSM, so final approval must wait until such comments are received. The La Pointe Zoning Administrator recommends that the CSM be amended to show wetlands, the access driveway, the fire hydrant and sewer manhole on Lot 3, and slopes (elevation information may show that additional soil erosion requirements are necessary).

Mr. Hartzell comments that he already has had a wetlands delineation done, but questions the necessity of elevations on the CSM.

The Town Plan Commission feels that it isn't necessary to show slope on the CSM as it's only for parcel division purposes. It may be necessary in the future for any Land Use Permits, but not now. At this point, they will require only that the CSM be amended to show wetlands, the access driveway, the fire hydrant and sewer manhole on Lot 3, and whatever the County Surveyor may require.

- c. **Hartzell, Robert RE: Certified Survey Map for reconfiguration of lots within Hartzell subdivision – combine 4 parcels into 2 at westerly corner of Penny Lane & Mondamin Trail.**

Ashland County hasn't yet given its comments on this CSM, so final approval must wait until such comments are received. It is unclear when or if these parcels were changed from R-1 to R-3. No map change approval can be found in the zoning records.

Mr. Hartzell states that this was a case of spot zoning done in the mid-1980's, around the time the town sewer was extended. He bought the land from Mr. Aldrich and Warren Anderson. The issue at the time was the 75 foot setback; wetlands weren't regulated as they are today.

The Zoning Administrator will do further research while waiting for comments from the County.

Chair Pallas states that Mr. Hartzell's two CSMs should be on the next agenda.

G. Thury moves that we resume the agenda as originally posted at item V.a.

## VI. Old Business

### Zoning Ordinance Revision Project

- a. **Review & Possibly make changes to 9/15/10 draft according to comment received at question and answer sessions**

- **Section 2.0**

- In the definition for Lot Area, add "*As it pertains to any property division and/or reconfiguration, lot area shall be the...*" to the beginning of the sentence.
- In the definition for Health Care Facility, add "*assisted living facility*" to list of examples.

- **Section 3.0**

- In 3.5 and 3.8, change asterisks to "*Note 1*" and/or "*Note 2.*"
- In 3.8, add a "*Note 2,*" to read, "*Planned Unit Residential Developments are allowed only in the interior of the island as described in Section .1.D.*"
- In 3.14 LZ-1, and 3.15 LZ-2, add "*Road/Driveway Access*" as a permitted use.
- Update the Zoning District Use Matrix (Section 16.3) accordingly.

- **Section 4.0**

- In 4.2.E.1, add "*or amendment thereto*" after "*After adoption of this Ordinance,*" in both instances in the paragraph.
- In 4.2.E.2, add "*or amendment thereto*" after "*effective date of this Ordinance.*"
- In 4.2.E.3, add "*or amendment thereto*" after "*adoption of this Ordinance.*"
- In 4.3.C.2, change reference from "*4.2.5*" to "*4.2.E.*"
- In 4.3.C, the paragraph immediately following 4.3.C.d, which is titled "*2. Alteration of Non-Conforming Lots of Record,*" should just be numbered 4.3.C.e. The number 2 and the title should be above the next paragraph, which begins "*Notwithstanding the provisions....*"

- **Section 6.0**

- In 6.1.F.1.b, change reference from “4.2.G” to “4.2.H.”
- In 6.1.F.1.c, delete entire text of 5<sup>th</sup> bullet point.
- In 6.1.F.2.e, change reference from “7.2.K” to “7.2.J.”
- In 6.2.C.3, change “L-2Z” to “LZ-2.”
- In 6.3.A.4, change “(eighty-five) 85” to “eighty-five (85).”
- In 6.4.B.6, insert “*but not within the right-of-way*” after “*The sign may be located in the lot setback....*”
- In 6.4.C.5, add a second sentence, reading “*The sign may be located in the lot setback, but not within the right-of-way, provided it does not interfere with passage or obstruct the view of vehicles or pedestrians.*”
- In 6.4.C.9, add “*per Section 4.3.B*” to the end of the sentence.

- **Section 7.0**

- In 7.1.B, third paragraph, delete “*and Town Board*” from the first sentence, and delete “*recommend and/or the Town Board*” from the fourth sentence.
- In 7.1.C, delete “*and the Town Board*” from the first and second sentences.
- In 7.2.F, replace “*recommendation of the Town Board*” with “*decision*” in the first sentence.
- In 7.2.F, replace “*recommendation*” with “*decision*” in the second sentence.
- In 7.2.G, change “*Within five (5) days after the Town Plan Commission decides to recommend issuance of a CUP, or the denial of an application*” to “*Within five (5) days after the Town Plan Commission decides to issue a CUP, or denies an application.*”
- In 7.2.G, change the last word of the first sentence from “*recommendation*” to “*decision.*”
- In 7.2.G, delete final sentence (“*the Zoning Administrator shall forward a copy of all records associated with a recommendation to the Town Board*”).
- Delete 7.2.H in its entirety.
- In 7.2.I, delete the first sentence, replace “*Town Board*” with “*Town Plan Commission*” each time, and replace “*Town Clerk*” with “*Zoning Administrator*” each time.
- In 7.2.J, replace “*Town Board*” with “*Town Plan Commission.*”
- In 7.2.J, replace “*Town Board’s action*” with “*issuance of the CUP.*”
- In 7.2.L, replace “*Town Board*” with “*Town Plan Commission.*”
- In 7.2.M, replace “*Town Board*” with “*Town Plan Commission.*”

- In 7.2.M, replace “*is reviewable only by certiorari by the circuit court*” with “*may be appealed to the Zoning Board of Appeals (See Section 10 of this Ordinance).*”
  - **Section 10.0**
    - In 10.2.K, second paragraph, add “*and Conditional Use Permits*” after “*special exceptions.*”
  - **Section 13.0**
    - In 13.5.A, add “*and Conditional Use Permits*” to the end of the sentence.
    - In 13.5.B, delete “*Conditional Use Permit Applications.*”
- b. Approval of final draft of the Zoning Ordinance**  
See item VI.c below.
- c. Recommendation of final draft of the Zoning Ordinance to the Town Board**  
G. Thury moves to recommend the Draft Zoning Ordinance of the Town of La Pointe, with amendments as of September 15<sup>th</sup>, 2010, and amendments made tonight, being October 6<sup>th</sup>, 2010, after input received from the Question & Answer Sessions with the public, to the Town Board, and to direct the Zoning Administrator to draft a report outlining the process by which the Town Plan Commission arrived at this draft. S. Soucek seconds. All in favor, 7 aye. Motion Carries.

## **VII. New Business**

- a. Cherry-Noha, Jackie RE: letter requesting Ordinance interpretation: how does the new Town Road, Miller Farm, affect her parcel #014-00202-0600?**

Ms. Noha has written concerning her property on Miller Farm Road. Is her lot now divided into a lot and out-lot because the road, now a Town road, bisects her land? This will be on the next agenda.

## **VIII. Future Agenda Items**

- **Hartzell, Robert RE: Certified Survey Map for reconfiguration of lots within Hartzell subdivision – combine 4 parcels into 2 at westerly corner of Penny Lane & Mondamin Trail**
- **Hartzell, Robert RE: After the fact Certified Survey Map for the division of parcel #014-00206-0200 at easterly corner of Penny Lane & Mondamin Trail.**
- **Cherry-Noha, Jackie RE: letter requesting Ordinance interpretation: how does the new Town Road, Miller Farm, affect her parcel #014-00202-0600?**

## **IX. Schedule of Next Meeting**

## **X. Adjournment**

G. Thury moves to adjourn. S. Soucek seconds. All in favor, 7 aye. Motion Carries. Meeting ends at 6:44 pm.

**2<sup>nd</sup> Draft Town Plan Commission Minutes respectfully submitted by Margaretta Kusch on Saturday, October 23, 2010.**

**Town Plan Commission minutes are approved as amended by Margaretta Kusch, ZCA on Wednesday, November 03, 2010.**